

IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 2526 OF 2001 (M/S)
Old CMWP No. 19574 of 1998

State of U.P. through the Collector Dehradun
Competent Authority, Urban Land Ceiling
Dehradun. ... **Petitioners.**

Versus

1. District Judge, Dehradun
2. Karunanand S/O Sri Maheshanand,
Resident of village Niranjapur,
District Dehradun

.... **Respondents.**

Dated 28-2-2006

Hon'ble B.S. Verma, J.

By means of the present Writ Petition, the petitioners-State has challenged the judgment and order dated 22-05-1996 passed by the District Judge, Dehradun (respondent no. 1) in Urban Land Ceiling Appeal No. 51 of 1993, Karuna Nand vs. State. By the impugned judgment and order (***Annexure-2 to the writ petition***), respondent no.1 allowed the appeal setting aside the order, dated 25-1-1993 of the Competent Authority, holding that the land of the appellant being outside the municipal limit is exempted from urban land ceiling.

Brief facts giving rise to the present writ petition are that initially proceedings for declaring excess vacant land under the provisions of Urban Land (Ceiling and Regularion) Act 1976 (for short the Act) were initiated against the respondent no.2 Karuna Nand and vide order dated 28-2-1984, land worth 6860 sq.mt. was declared as excess vacant land in his possession. The respondent no.2 preferred an appeal before the District Judge, which was allowed vide judgment and order dated 13.4.1989 and the land holder was directed to submit the statement of his properties in the light of the mater plan, but the land holder failed to comply with the said order. The Competent Authority proposed

to declare 22,888-90 sq.mt. land as surplus excess vacant land in possession of the land holder on the basis of previous statement filed by him. The land holder filed objection dated 16-7-90 mainly on the ground that no legal master plan is existing in Dehradun City. The Supervisor Kanungo vide his report dated 1-8-89 specifying therein the details of the properties held by the land holder. After hearing learned counsel for the parties, the competent Authority vide his order dated 25.1.1993 held that land to the extent of 21,5888-18 sq.mt. is surplus excess land in his possession and accordingly passed the order declaring 21588-18 sq.mt. land as surplus vacant land.

Aggrieved by the said order, the respondent no.2 preferred appeal before the District Judge Dehradun. Before the District Judge the points whether the land in possession of the land holder falls within the municipal limits and whether the provisions of the Act are applicable were considered. The learned District Judge after hearing both the parties came to the conclusion that the land being outside the municipal limits was exempted from the provisions of the Act. Accordingly, the appeal was allowed.

I have heard learned counsel for the parties and perused the record.

The learned District Judge has given specific finding that the land in possession of the land-holder is situate outside the municipal limits and, therefore, the provisions of the said Act are not applicable. Even if it may be presumed that the provisions of the Act are applicable to the property in dispute, there is no merit in the present writ petition for the reasons given below.

The Act Urban Land (Ceiling and Regulation) Act, 1976 (Act No. 33 of 1976) was repealed by the Central Act No. 15 of 1999. The Legislature of State of U.P. has since adopted the provisions of the Urban Land (Ceiling and Regulation) Act 1999, by a resolution as required by Article 252(2) of the Constitution,

which has come into force in Uttar Pradesh on 18-03-1999 and the same are also applicable in the State of Uttaranchal.

Section 4 of the Urban Land (Ceiling and Regulation) Repeal Act, 1999 provides as under:

“4. Abatement of legal proceedings.-All proceedings relation to any order made or purported to be made under the principal Act pending immediately before the commencement of this Act, before any Court, Tribunal or other authority shall abate;

Provided that this section shall not apply to the proceedings relating to Sections 11, 12, 13 and 14 of the principal Act in so far as such proceedings are relatable to the land possession of which has been taken over by the State Government or any person duly authorized by the State Government in this behalf or by the competent authority.”

As stated by the learned Standing Counsel, Sri Nand Prasad, appearing on behalf of the State, no declaration has been published under Section 10(3) of the principal Act, therefore, no question of vesting of the land in the State or taking over possession arises. The effect of the repealing Act on present case is that where for land in dispute, no declaration was published under Section 10(3) of the Act, there is no question of vesting the land in the State or taking over possession of it. The present proceedings have to be abated and are hereby abated under Section 4 of the Urban Land (Ceiling and Regulation) Repeal Act, 1999.

The facts of the case are squarely covered by the judgment of the Apex Court in the case of **“Pt. Madan Swaroop Shrotiya Public Charitable Trust Vs. State of U.P. and others” (2000, AIR, SCW, 1882).**

In view of the above, the Writ Petition has become infructuous and is dismissed as infructuous. Ordered accordingly.

(B.S.Verma, J.)